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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLOW THAMES,

Plaintiff,

vs.

NEVADA HAND CORPORATION, et al.,

Defendants.

Case No. 2:22-cv-01442-JAD-VCF

Report and Recommendation to Remand

And

Order

APPLICATION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS (ECF NO. 1);
COMPLAINT (ECF NO. 1-1); MOTION FOR
AN EXPEDITED HEARING (ECF NO. 3)

13 Pro se litigant Willow Thames filed an application to proceed in forma pauperis (IFP), a
14 proposed complaint, and a motion for an expedited hearing. ECF Nos. 1, 1-1, and 3. Plaintiff's proposed
15 complaint is a landlord tenant case that does not belong in federal court. I believe plaintiff intended to
16 file this case in state court, but filed it in the wrong court, because all of plaintiff's filings are on state
17 court forms. *Id.* I recommend that this case be dismissed so that plaintiff can file his lawsuit in the
18 correct court. I deny the application to proceed in forma pauperis and the motion for an expedited
19 hearing as moot. ECF Nos. 1 and 3.

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DISCUSSION

Federal courts are courts of limited jurisdiction, having subject-matter jurisdiction only over
matters authorized by the Constitution and Congress. U.S. Const. art. III, § 2, cl. 1; e.g., *Kokkonen v.*
Guardian Life Ins. Co. of Am., 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994). A court
may have subject matter jurisdiction either because it has diversity jurisdiction, pursuant to 28 U.S.C. §

1 1332, or federal question jurisdiction, pursuant to 28 U.S.C. § 1331. “[A] pro se complaint, however
2 inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.”
3 *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)).

4 Plaintiff alleges that his landlord, the Nevada Hand Corporation (and its president and CEO), are
5 attempting to remove him from his apartment so that they can remodel it. ECF No. 1-1. There are no
6 federal claims so federal question jurisdiction does not exist. Complete diversity also does not exist
7 since Thames lives in Las Vegas and the Nevada Hand Corporation parties are also in Nevada.
8 Ordinarily I would give a pro se plaintiff a chance to file an amended complaint in this court to show
9 why this court might have jurisdiction. Even under the liberal pleading standard, however, Thames has
10 not established a basis to bring his landlord tenant case in federal court. Based on the alleged urgency of
11 plaintiff’s position (that he must soon leave his apartment), and the fact that this court does not have
12 jurisdiction over these claims, I recommend sua sponte that this case be dismissed without prejudice so
13 that plaintiff can promptly file his case in state court. FRCP 12(h)(3). Plaintiff will not be prejudiced
14 because he can file an objection to this report and recommendation, if he wants to, explaining why this
15 case should remain in this court. I deny plaintiffs’ IFP application and motion for an expedited hearing
16 as moot.
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18 ACCORDINGLY,

19 I RECOMMEND that that this case be dismissed without prejudice.

20 I ORDER that Thames’s application to proceed in forma pauperis (ECF No. 1) and motion to
21 expedite hearing (ECF No. 3) both be DENIED AS MOOT.


22 **NOTICE**

23 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
24 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
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1 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
2 may determine that an appeal has been waived due to the failure to file objections within the specified
3 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
4 objections within the specified time and (2) failure to properly address and brief the objectionable issues
5 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
6 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
7 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, the plaintiff must immediately file
8 written notification with the court of any change of address. The notification must include proof of
9 service upon each opposing party's attorney, or upon the opposing party if the party is unrepresented by
10 counsel. Failure to comply with this rule may result in dismissal of the action.

11 IT IS SO RECOMMENDED and ORDERED.

12 DATED this 19th day of September 2022.

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15 CAM FERENBACH
16 UNITED STATES MAGISTRATE JUDGE
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